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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,759	09/29/2003	Gary Walter Krajenke	GP-303323	1482

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EXAMINER

PATEL, KIRAN B

ART UNIT PAPER NUMBER

3612

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/673,759

Applicant(s)

KRAJENKE, GARY WALTER

Examiner

Kiran B. Patel

Art Unit

3612

*llw*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/29/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Non-Final Rejection**

#### **Election/Restriction**

1. Applicant's election without traverse of Group I and claims 1-7 is acknowledged.

Claims 8-19, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim.

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-7, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Christensen (5,681,074).

Regarding claims 1, 3-7, 20-21, Christensen (5,681,074) discloses in Fig. 1-7 the invention as claimed to include a component 12 having first and second attachment means 36 for hingedly and releasably attaching said component to the vehicle body 14; and an extension member 46 having first 52 and second 48 ends and being operable to move from a normally retracted position to an extended position, said first end of said extension member being pivotally attached to said component 12 and said second end 48 of said extension member being adapted to pivotally attached to the vehicle body; an actuator 56, 58;

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (5,681,074) in view of Nakatomi et al. (6,193,300).

Regarding claims 2, 22, Christensen (5,681,074) discloses the invention as claimed.

However, Christensen (5,681,074) does not disclose a scissor jack and trunk lid.

Nakatomi et al. (6,193,300) discloses in Fig 1-11 a scissor jack and trunk lid.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Christensen (5,681,074), to include a scissor jack and trunk lid, as disclosed by Nakatomi et al. (6,193,300), to open and close the trunk lid.

4. Claims 7, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (5,681,074) as applied to claim 4 and in view of ordinary skill in the art.

Regarding claims 7, 23, Christensen (5,681,074) discloses the invention as claimed.

However, Christensen (5,681,074) does not disclose a controller is a body control module.


It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a controller body control module, since it has

been held to be within the general skill of a worker in the art to select a known controller on the basis of its suitability for the intended use as a matter of obvious design choice to safely control the movement of the trunk lid.

**Conclusion**

5. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

6. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 703-305-0254. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

  
Kiran B. Patel, P. E.  
Primary Examiner  
Art Unit 3612  
October 29, 2004